

2 **2SSB 6336** - H COMM AMD **NOT ADOPTED 2-29-96**  
3 By Committee on Agriculture & Ecology

4

5 Strike everything after the enacting clause and insert the  
6 following:

7

**"PART I**

8

**WATER RESOURCES BOARD**

9 NEW SECTION. **Sec. 1.** The legislature finds that balanced  
10 administration and management of the state water resources is of  
11 paramount importance to the citizens of the state. The legislature  
12 finds that regional differences in water resource conditions require  
13 greater consideration in the development and administration of water  
14 resource policy. The legislature finds that to effectively take  
15 regional differences into consideration, the decision-making authority  
16 needs to be based on water resource plans developed by local elected  
17 officials and interested persons from various regions of the state.

18 It is the intent of the legislature to create a water resources  
19 board to establish and administer certain state-wide policies and to  
20 divide the board into two regional commissions for establishing and  
21 administering other policies. Further, it is the direction of the  
22 legislature that the board implement programs that are balanced with  
23 the interests of all sectors of the state's residents taken in account.

24 It is further the intent of the legislature that all existing water  
25 rights be protected and not diminished by the actions of the state and  
26 that the principles of the prior appropriation doctrine of western  
27 water law remain unchanged by this enactment (chapter . . . , Laws of  
28 1996).

29 NEW SECTION. **Sec. 2.** The definitions in this section apply  
30 throughout this chapter.

31 (1) "Board" means the water resources board created by this  
32 chapter.

33 (2) "Commission" means the western or eastern Washington water  
34 resource commission established pursuant to this chapter.

1 (3) "Water supply special purpose district" means a water, combined  
2 water-sewer, irrigation, reclamation, or public utility district that  
3 provides water to persons or other water users within the district.

4 (4) "State engineer" means the person hired by the board to  
5 administer the state engineer's office and the water resource programs  
6 and responsibilities assigned to that office.

7 (5) "WRIA" means a water resource inventory area established in WAC  
8 173-500-030, as it exists on January 1, 1996.

9 NEW SECTION. **Sec. 3.** (1) There is hereby created and established  
10 a water resources board. The board shall be composed of the members of  
11 the two commissions created by this subsection. There are hereby  
12 created and established two subdivisions of the water resources board  
13 to be known as the eastern Washington water resource commission and the  
14 western Washington water resource commission. The eastern Washington  
15 water resource commission shall have jurisdiction throughout the area  
16 of the state east of the crest of the Cascade mountains and including  
17 all of Skamania county. The western Washington water resource  
18 commission shall have jurisdiction throughout the area of the state  
19 west of the crest of the Cascade mountains, exclusive of Skamania  
20 county.

21 (2) The members of a commission shall serve four-year terms. Each  
22 of the commissioners shall hold office until his or her successor is  
23 appointed. The members of a commission shall biennially choose a chair  
24 from among themselves. The chair of the eastern Washington water  
25 resource commission and the chair of the western Washington water  
26 resource commission shall serve as chair of the water resources board  
27 in alternating years. The chair of the eastern commission shall serve  
28 as the chair of the board in each odd-numbered year.

29 (3) Each commission shall be composed of eight members nominated by  
30 the counties and appointed by the governor as provided in this section.

31 (a) The counties within the jurisdiction of the eastern Washington  
32 water resource commission are divided into two groups: (i) Benton,  
33 Chelan, Douglas, Franklin, Grant, Kittitas, Klickitat, Okanogan,  
34 Skamania, and Yakima counties; and (ii) the remaining counties within  
35 the jurisdiction of the commission. The counties assigned to a  
36 particular group shall collectively nominate six persons for  
37 appointment to the eastern Washington water resource commission and  
38 submit this list of nominations to the governor. The governor shall

1 appoint four members of the commission from each of the two lists  
2 submitted in this manner.

3 (b) The counties within the jurisdiction of the western Washington  
4 water resource commission are divided into four groups: (i) King,  
5 Pierce, and Snohomish counties; (ii) Island, San Juan, Skagit, and  
6 Whatcom counties; (iii) Clallam, Jefferson, Kitsap, Mason, and Grays  
7 Harbor counties; and (iv) the remaining counties within the  
8 jurisdiction of the commission. Nominations for appointment to the  
9 western Washington water resource commission from each group shall be  
10 submitted to the governor.

11 (c) Each of the counties listed in (b)(i) of this subsection shall  
12 nominate two persons and each of the cities of Seattle, Tacoma, and  
13 Everett shall nominate two persons for appointment to the commission  
14 and the governor shall appoint five members to the western Washington  
15 water resource commission from these nominations.

16 (d) The counties in (b)(ii) of this subsection shall collectively  
17 nominate three persons for appointment to the commission and the  
18 governor shall appoint one member to the western Washington water  
19 resource commission from these nominations. The counties in (b)(iii)  
20 of this subsection shall collectively nominate three persons for  
21 appointment to the commission and the governor shall appoint one member  
22 to the western Washington water resource commission from these  
23 nominations. The counties in (b)(iv) of this subsection shall  
24 collectively nominate three persons for appointment to the commission  
25 and the governor shall appoint one member to the western Washington  
26 water resource commission from these nominations.

27 (e) The members of the legislative authorities of the counties  
28 assigned to a group by (a) of this subsection or assigned to a group by  
29 (b) of this subsection shall convene to nominate persons for  
30 appointment to the eastern or western Washington water resource  
31 commission. The counties and the counties and cities in (c) of this  
32 subsection shall provide their lists of nominees to the governor not  
33 later than thirty days after the effective date of this section. If  
34 the counties assigned to a group do not provide nominations within the  
35 prescribed time, the governor may make the appointments allocated to  
36 the group without nominations. Each county assigned to a group by this  
37 subsection (3) for one or more collective nominations shall be entitled  
38 to three votes for each nomination and shall divide the votes equally  
39 among the members of the legislative authority of the county.

1 Nominations shall be made by a majority vote of all of such members  
2 assigned to the group based on the votes allocated to them under this  
3 section. The governor shall make all appointments to the commissions  
4 within ninety days of the effective date of this section.

5 Nominations and appointments to fill vacancies on the commission  
6 shall be made as provided by this section for original appointments to  
7 the positions. Such nominations shall be made within sixty days of the  
8 date the vacancy is created or the appointment shall be made without  
9 nominations. The governor shall appoint a person to fill a vacancy  
10 within thirty days of the date the vacancy is created.

11 Nominations and appointments to fill expired terms of office of the  
12 members of the commission shall be made as prescribed for nominations  
13 and appointments for the initial membership of the commissions. The  
14 members of the county legislative authorities shall make nominations  
15 sixty days before the expiration of terms of office and the governor  
16 shall make appointments not later than the date of the expiration of  
17 the terms of office, which appointments shall take effect upon the  
18 expiration of those terms.

19 (4) Each person nominated for appointment to a commission shall be  
20 knowledgeable about state water law and have at least five years'  
21 experience in water resource matters.

22 (5) No elective state official, state officer, or state employee  
23 shall be a member of a commission nor may a member of the commission  
24 have been such an official, officer, or employee within two years of  
25 being appointed to the commission. At the time of their appointment  
26 and thereafter during their respective terms of office, the members of  
27 the eastern commission shall reside within the eastern jurisdiction and  
28 the members of the western commission shall reside within the western  
29 jurisdiction. No more than two members of each commission shall reside  
30 in the same county.

31 (6) The governor may remove any member of a commission for  
32 malfeasance or misfeasance in office or for having at least five  
33 unexcused absences during the person's term of office which constitute  
34 twenty percent or more of the meetings that have been conducted by the  
35 commission during the term. A person's absence from a meeting may be  
36 excused: By the chair of the commission if a written request to do so  
37 is received by the chair before the meeting from which the member is to  
38 be absent; or by a majority vote of the members of the commission at  
39 the meeting during which the member is absent.

1 (7) Each member of the commissions may receive reimbursement for  
2 travel expenses incurred in the discharge of his or her duties in  
3 accordance with RCW 43.03.050 and 43.03.060. The board and the  
4 commissions shall operate on a part-time basis and each member shall  
5 receive compensation pursuant to RCW 43.03.250. The principal office  
6 of each commission shall be located within the jurisdictional  
7 boundaries of each commission. The principal office of the board shall  
8 be in the same location as the principal office of the state engineer.

9 NEW SECTION. **Sec. 4.** For actions taken by the board, a majority  
10 of all of the commissioners shall constitute a quorum. A majority of  
11 the members of a commission shall constitute a quorum of the commission  
12 for the transaction of any business, for the performance of any duty,  
13 or for the exercise of any power of the commission. Any investigation,  
14 inquiry, or hearing that a commission has power to undertake or to hold  
15 may be undertaken or held by or before any commissioner. All  
16 investigations, inquiries, and hearings of a commission, and all  
17 findings, orders, or decisions, made by a commissioner, when approved  
18 and confirmed by the commission and filed in its office, shall be and  
19 be deemed to be the orders or decisions of the commission. All actions  
20 of a commission, the board, or of a commissioner acting individually  
21 under the authority of this section shall be conducted in accordance  
22 with the administrative procedure act, chapter 34.05 RCW.

23 NEW SECTION. **Sec. 5.** (1) In addition to the powers, duties, and  
24 functions in sections 15 and 16 of this act, the board and the  
25 commissions have the powers and duties assigned by this section.

26 (a) The board shall adopt rules for its operation.

27 (b) The board shall appoint the state engineer. The state engineer  
28 shall serve at the pleasure of the board.

29 (c) The board shall prepare and approve a proposed budget for the  
30 board, the commissions, and the office of the state engineer.

31 (d) Each commission shall appoint and employ staff as may be  
32 necessary for the direct support of the activities of the commission.

33 (e) Each commission shall approve or deny all interbasin transfers  
34 within its jurisdiction with the advice of the state engineer. The  
35 board shall by rule adopt procedures for interbasin transfers,  
36 consistent with state law.

1 (2) The board and the commissions severally may adopt rules only:  
2 To the extent specifically required by federal law or a court order; to  
3 the extent explicitly authorized by state law; or to implement a  
4 specific objective of a state statute.

5 (3) The state engineer shall administer the state's water quantity  
6 programs on behalf of the board and the commissions through an office  
7 of the state engineer which is hereby created. The state engineer  
8 shall be the administrator of the office and the supervisor of the  
9 employees of the office.

10 NEW SECTION. **Sec. 6.** All proceedings of a commission or of the  
11 board are subject to the open public meetings act, chapter 42.30 RCW.  
12 All public records in possession of the board, the commissions, and the  
13 state engineer shall be subject to chapter 42.17 RCW regarding public  
14 records. The board shall make and submit to the governor and the  
15 legislature a biennial report beginning January 1998 containing a  
16 statement of the transactions and proceedings of its office, together  
17 with the information gathered by the board, the commissions, and the  
18 state engineer and such other facts, suggestions, and recommendations  
19 as the governor may require or the legislature request.

20 NEW SECTION. **Sec. 7.** In exercising the powers, duties, and  
21 functions transferred to the state engineer in sections 15 and 16 of  
22 this act, the state engineer is encouraged to collect data from  
23 available sources, conduct analyses and studies by contract, and  
24 conduct field investigations by means of memoranda of understanding  
25 with units of local government.

26 **PART II**  
27 **TRANSFER OF POWER**

28 **Sec. 8.** RCW 43.27A.020 and 1987 c 109 s 31 are each amended to  
29 read as follows:

30 As used in this chapter, and unless the context indicates  
31 otherwise, words and phrases shall mean:

32 (1) "~~((Department))~~ Commission" means the ~~((department—of~~  
33 ~~ecology+))~~ western or eastern water resource commission.

34 (2) "Director" means the ~~((director of ecology+))~~ state engineer.

1       (3) "State agency" and "state agencies" mean any branch, department  
2 or unit of state government, however designated or constituted((~~it~~)).

3       (4) "Water resources" means all waters above, upon, or beneath the  
4 surface of the earth, located within the state and over which the state  
5 has sole or concurrent jurisdiction.

6       (5) "Beneficial use" means, but its meaning shall not be limited  
7 to: Domestic water supplies; irrigation; fish, shellfish, game, and  
8 other aquatic life; recreation; industrial water supplies; generation  
9 of hydroelectric power; and navigation.

10       **Sec. 9.** RCW 43.27A.090 and 1988 c 127 s 25 are each amended to  
11 read as follows:

12       The ((~~department~~)) commissions shall be empowered as follows:

13       (1) To represent the state at, and fully participate in, the  
14 activities of any basin or regional commission, interagency committee,  
15 or any other joint interstate or federal-state agency, committee or  
16 commission, or publicly financed entity engaged in the planning,  
17 development, administration, management, conservation or preservation  
18 of the water resources of the state.

19       (2) To prepare the views and recommendations of the state of  
20 Washington on any project, plan, or program relating to the planning,  
21 development, administration, management, conservation, and preservation  
22 of any waters located in or affecting the state of Washington,  
23 including any federal permit or license proposal, and appear on behalf  
24 of, and present views and recommendations of the state at any  
25 proceeding, negotiation or hearing conducted by the federal government,  
26 interstate agency, state or other agency.

27       (3) To cooperate with, assist, advise and coordinate plans with the  
28 federal government and its officers and agencies, and serve as a state  
29 liaison agency with the federal government in matters relating to the  
30 use, conservation, preservation, ((~~quality, disposal~~)) or control of  
31 water and activities related thereto.

32       (4) To cooperate with appropriate agencies of the federal  
33 government and/or agencies of other states, to enter into contracts,  
34 and to make appropriate contributions to federal or interstate projects  
35 and programs and governmental bodies to carry out the provisions of  
36 this chapter.

37       (5) To apply for, accept, administer and expend grants, gifts and  
38 loans from the federal government or any other entity to carry out the

1 purposes of this chapter and make contracts and do such other acts as  
2 are necessary insofar as they are not inconsistent with other  
3 provisions hereof.

4 ~~(6) ((To develop and maintain a coordinated and comprehensive state  
5 water and water resources related development plan, and adopt, with  
6 regard to such plan, such policies as are necessary to insure that the  
7 waters of the state are used, conserved and preserved for the best  
8 interest of the state. There shall be included in the state plan a  
9 description of developmental objectives and a statement of the  
10 recommended means of accomplishing these objectives. To the extent the  
11 director deems desirable, the plan shall integrate into the state plan,  
12 the plans, programs, reports, research and studies of other state  
13 agencies.~~

14 ~~(7))~~ To assemble and correlate information relating to water  
15 supply, power development, irrigation, watersheds, water use, future  
16 possibilities of water use and prospective demands for all purposes  
17 served through or affected by water resources development.

18 ~~((+8))~~ (7) To assemble and correlate state, local and federal  
19 laws, regulations, plans, programs, and policies affecting the  
20 beneficial use, ~~((disposal, pollution,))~~ control, or conservation of  
21 water, river basin development, flood prevention, parks, reservations,  
22 forests, wildlife refuges, drainage ~~((and sanitary))~~ systems, ~~((waste  
23 disposal,))~~ water works, watershed protection and development, instream  
24 flows, soil conservation, power facilities and area and municipal water  
25 supply needs, and recommend suitable legislation or other action to the  
26 legislature, the congress of the United States, or any city,  
27 municipality, or to responsible state, local or federal executive  
28 departments or agencies.

29 ~~((+9))~~ (8) To cooperate with federal, state, regional, interstate  
30 and local public and private agencies in the making of plans for  
31 drainage, flood control, use, conservation, allocation and distribution  
32 of existing water supplies and the development of new water resource  
33 projects.

34 ~~((+10))~~ (9) To encourage, assist and advise regional, and city and  
35 municipal agencies, officials or bodies responsible for planning in  
36 relation to water aspects of their programs, and ~~((coordinate))~~ to  
37 collect information that facilitates the coordination of local water  
38 resources activities, programs, and plans.

1       (~~(11)~~) (10) To (~~(promulgate)~~) adopt such rules (~~(and~~  
2 ~~regulations)~~) as are necessary to carry out the purposes of this  
3 chapter.

4       (~~(12)~~) (11) To hold public hearings, and make such  
5 investigations, studies and surveys as are necessary to carry out the  
6 purposes of the chapter.

7       (~~(13)~~) (12) To subpoena witnesses, compel their attendance,  
8 administer oaths, take the testimony of any person under oath and  
9 require the production of any books or papers when the (~~(department)~~)  
10 commission deems such measures necessary in the exercise of its rule-  
11 making power or in determining whether or not any license, certificate,  
12 or permit shall be granted or extended.

13       **Sec. 10.** RCW 43.27A.130 and 1988 c 127 s 26 are each amended to  
14 read as follows:

15       The (~~(department of ecology)~~) state engineer may make complete  
16 inventories of the state's water resources and enter into such  
17 agreements with the director of the United States geological survey as  
18 will insure that investigations and surveys are carried on in an  
19 economical manner.

20       **Sec. 11.** RCW 43.27A.190 and 1987 c 109 s 11 are each amended to  
21 read as follows:

22       Notwithstanding and in addition to any other powers granted to the  
23 (~~(department of ecology)~~) state engineer, whenever it appears to the  
24 (~~(department)~~) engineer that a person is violating or is about to  
25 violate any of the provisions of the following:

- 26       (1) Chapter 90.03 RCW; or
- 27       (2) Chapter 90.44 RCW; or
- 28       (3) (~~Chapter 86.16 RCW; or~~
- 29       ~~(4) Chapter 43.37 RCW; or~~
- 30       ~~(5)~~) Chapter 43.27A RCW; or

31       (~~(6)~~) (4) Any other law relating to water resources administered  
32 by the (~~(department)~~) engineer; or

33       (~~(7)~~) (5) A rule (~~(or regulation)~~) adopted, or a directive or  
34 order issued by the (~~(department)~~) board, a commission, or the state  
35 engineer relating to subsections (1) through (~~(6)~~) (4) of this  
36 section; the (~~(department)~~) engineer may cause a written regulatory  
37 order to be served upon said person either personally, or by registered

1 or certified mail delivered to addressee only with return receipt  
2 requested and acknowledged by him or her. The order shall specify the  
3 provision of the statute, rule, regulation, directive, or order alleged  
4 to be or about to be violated, and the facts upon which the conclusion  
5 of violating or potential violation is based, and shall order the act  
6 constituting the violation or the potential violation to cease and  
7 desist or, in appropriate cases, shall order necessary corrective  
8 action to be taken with regard to such acts within a specific and  
9 reasonable time. The regulation of a headgate or controlling works as  
10 provided in RCW 90.03.070, by a watermaster, stream patrolman, or other  
11 person so authorized by the (~~department~~) engineer shall constitute a  
12 regulatory order within the meaning of this section. A regulatory  
13 order issued hereunder shall become effective immediately upon receipt  
14 by the person to whom the order is directed, except for regulations  
15 under RCW 90.03.070 which shall become effective when a written notice  
16 is attached as provided therein. Any person aggrieved by such order  
17 may appeal the order pursuant to RCW 43.21B.310.

18 **Sec. 12.** RCW 43.21A.020 and 1970 ex.s. c 62 s 2 are each amended  
19 to read as follows:

20 In recognition of the responsibility of state government to carry  
21 out the policies set forth in RCW 43.21A.010, it is the purpose of this  
22 chapter to establish a single state agency with the authority to manage  
23 (~~and develop~~) our air (~~and water~~) resources in an orderly,  
24 efficient, and effective manner and to carry out a coordinated program  
25 of pollution control involving (~~these~~) air, water, and related land  
26 resources. To this end a department of ecology is created by this  
27 chapter to undertake, in an integrated manner, the (~~various water~~)  
28 regulation, management, and planning (~~and development~~) of water  
29 quality programs now authorized to be performed by (~~the department of~~  
30 ~~water resources and~~) the water pollution control commission, the air  
31 regulation and management program now performed by the state air  
32 pollution control board, the solid waste regulation and management  
33 program authorized to be performed by state government as provided by  
34 chapter 70.95 RCW, and such other environmental, management protection  
35 and development programs as may be authorized by the legislature.

36 **Sec. 13.** RCW 43.21A.067 and 1987 c 109 s 27 are each amended to  
37 read as follows:

1       The ~~((director of ecology))~~ state engineer may create within ~~((his~~  
2 ~~department))~~ the engineer's office a fund to be known as the "basic  
3 data fund."

4       Into such fund shall be deposited all moneys contributed by persons  
5 for stream flow, ground water, and water quality data or other  
6 hydrographic information furnished by the ~~((department))~~ engineer in  
7 cooperation with the United States geological survey, and the fund  
8 shall be expended on a matching basis with the United States geological  
9 survey for the purpose of obtaining additional basic information needed  
10 for an intelligent inventory of water resources in the state.

11       Disbursements from the basic data fund shall be on vouchers  
12 approved by the ~~((department))~~ engineer and the district engineer of  
13 the United States geological survey.

14       **Sec. 14.** RCW 90.54.040 and 1988 c 47 s 5 are each amended to read  
15 as follows:

16       (1) The ~~((department))~~ water resources board and its commissions,  
17 through the adoption of appropriate rules, ~~((is))~~ are directed~~((, as a~~  
18 ~~matter of high priority to insure that the waters of the state are~~  
19 ~~utilized for the best interests of the people,))~~ to develop and  
20 implement in accordance with the policies of this chapter a  
21 ~~((comprehensive state))~~ water resources program ~~((which will provide a~~  
22 ~~process for making decisions))~~ that implements policies on future water  
23 resource allocation and use. ~~((The department may develop the program~~  
24 ~~in segments so that immediate attention may be given to waters of a~~  
25 ~~given physioeconomic region of the state or to specific critical~~  
26 ~~problems of water allocation and use.~~

27       ~~The current guidelines, standards, or criteria governing the~~  
28 ~~elements of the water resource program established pursuant to this~~  
29 ~~subsection shall not be altered or amended after March 15, 1988, in~~  
30 ~~accordance with RCW 90.54.022(5).))~~ The board and commissions shall  
31 have the sole and exclusive authority to adopt rules concerning the  
32 regulation of surface and ground water.

33       (2) In relation to the management and regulatory programs relating  
34 to water resources vested in ~~((it))~~ them, the ~~((department is))~~ board  
35 and commissions are further directed to modify existing ~~((regulations))~~  
36 rules and adopt new ~~((regulations))~~ rules, when needed and possible, to  
37 insure that existing regulatory programs are in accord with the ~~((water~~  
38 ~~resource policy of this chapter and the program established in~~

1 subsection (1) of this section. The current guidelines, standards, or  
2 criteria governing the department's implementation of this subsection  
3 shall not be altered or amended after March 15, 1988, in accordance  
4 with subsection (1) of this section)) policies of chapter . . . , Laws  
5 of 1996 (this act).

6 (3) The ((department is)) commissions are directed to review all  
7 statutes relating to water resources which ((it is)) they are  
8 responsible for implementing. When any of the same appear to the  
9 ((department)) commissions to be ambiguous, burdensome, unclear,  
10 unworkable, unnecessary, or otherwise deficient, ((it)) they shall make  
11 recommendations to the legislature including appropriate proposals for  
12 statutory modifications or additions. Whenever it appears that the  
13 policies of any such statutes are in conflict with the policies of  
14 chapter . . . , Laws of 1996 (this ((chapter)) act), and the  
15 ((department is)) commissions are unable to fully perform as provided  
16 in subsection (2) of this section, the ((department is)) commissions  
17 are directed to submit statutory modifications to the legislature  
18 which, if enacted, would allow the ((department)) commissions to carry  
19 out such statutes in harmony with this chapter.

20 NEW SECTION. Sec. 15. (1) On the effective date of this section,  
21 all powers, duties, and functions of the department of ecology  
22 pertaining to water resource quantity are transferred to the water  
23 resources board, the western Washington and eastern Washington water  
24 resource commissions, or the state engineer. The authority to adopt  
25 rules regarding those powers, duties, and functions is transferred to  
26 the commissions and the administration of those powers, duties, and  
27 functions is transferred to the state engineer. All references to the  
28 director or the department of ecology in the Revised Code of Washington  
29 shall be construed to mean the water resources board, the western  
30 Washington and eastern Washington water resource commissions, or the  
31 state engineer when referring to the functions transferred in this  
32 section.

33 (2)(a) All reports, documents, surveys, books, records, files,  
34 papers, or written material including but not limited to the water  
35 resources information system established and maintained under RCW  
36 90.54.030, in the possession of the department of ecology pertaining to  
37 the powers, functions, and duties transferred shall be delivered to the  
38 custody of the state engineer. All cabinets, furniture, office

1 equipment, motor vehicles, and other tangible property employed by the  
2 department of ecology in carrying out the powers, functions, and duties  
3 transferred shall be made available to the water resources board, the  
4 western Washington and eastern Washington water resource commissions,  
5 and the state engineer. All funds, credits, or other assets held in  
6 connection with the powers, functions, and duties transferred shall be  
7 assigned to the water resources board, the western Washington and  
8 eastern Washington water resource commissions, and the state engineer.

9 (b) Any appropriations made to the department of ecology for  
10 carrying out the powers, functions, and duties transferred shall, on  
11 the effective date of this section, be transferred and credited to the  
12 water resources board, the western Washington and eastern Washington  
13 water resource commissions, and the state engineer.

14 (c) Whenever any question arises as to the transfer of any  
15 personnel, funds, books, documents, records, papers, files, equipment,  
16 or other tangible property used or held in the exercise of the powers  
17 and the performance of the duties and functions transferred, the  
18 director of financial management shall make a determination as to the  
19 proper allocation and certify the same to the state agencies concerned.

20 (3) All employees classified under chapter 41.06 RCW, the state  
21 civil service law, of the department of ecology engaged in performing  
22 the powers, functions, and duties transferred are transferred to the  
23 jurisdiction of the water resources board, the western Washington and  
24 eastern Washington water resource commissions, and the state engineer.  
25 The employees are assigned to the water resources board, the western  
26 Washington and eastern Washington water resource commissions, and the  
27 state engineer to perform their usual duties upon the same terms as  
28 formerly, without any loss of rights, subject to any action that may be  
29 appropriate thereafter in accordance with the laws and rules governing  
30 state civil service.

31 (4) All rules and all pending business before the department of  
32 ecology pertaining to the powers, functions, and duties transferred  
33 shall be continued and acted upon by the water resources board, the  
34 western Washington and eastern Washington water resource commissions,  
35 and the state engineer. All existing contracts and obligations shall  
36 remain in full force and shall be performed by the water resources  
37 board, the western Washington and eastern Washington water resource  
38 commissions, and the state engineer.

1 (5) The transfer of the powers, duties, functions, and personnel of  
2 the department of ecology shall not affect the validity of any act  
3 performed before the effective date of this section.

4 (6) If apportionments of budgeted funds are required because of the  
5 transfers directed by this section, the director of financial  
6 management shall certify the apportionments to the agencies affected,  
7 the state auditor, and the state treasurer. Each of these shall make  
8 the appropriate transfer and adjustments in funds and appropriation  
9 accounts and equipment records in accordance with the certification.

10 (7) Nothing contained in this section may be construed to alter any  
11 existing collective bargaining unit or the provisions of any existing  
12 collective bargaining agreement until the agreement has expired or  
13 until the bargaining unit has been modified by action of the personnel  
14 board as provided by law.

15 (8) This section shall take effect July 1, 1997.

16 NEW SECTION. **Sec. 16.** Effective July 1, 1997, the powers and  
17 duties of the department of ecology concerning water quantity under the  
18 following statutes are transferred to the water resources board and its  
19 commissions and to the state engineer: RCW 43.20.230, 43.21A.061,  
20 43.21A.064 except 43.21A.064(2), 43.21A.067, 43.21A.450, 43.21A.460,  
21 43.21A.470, 43.27A.020, 43.27A.090, 43.27A.130, 43.27A.190, chapter  
22 43.83B RCW, RCW 43.99E.025, Title 87 RCW, and chapters 18.104, 89.12,  
23 89.16, 89.30, 90.03, 90.08, 90.14, 90.16, 90.22, 90.24, 90.38, 90.40,  
24 90.42, 90.44, and 90.54 RCW. More specifically, the following powers,  
25 duties, programs, and services presently administered and enforced by  
26 the department of ecology are transferred to the water resources board,  
27 the commissions, and the state engineer:

28 (1) Water regulation, management, and development;

29 (2) Permitting authority regarding appropriation, diversion, and  
30 use of water;

31 (3) Data collection and other hydrographic information duties;

32 (4) Technical assistance powers and duties regarding water  
33 quantity;

34 (5) Authority regarding the water resource aspects of international  
35 issues, such as Lake Osoyoos;

36 (6) Participation with the federal government in development of the  
37 Columbia basin project and the Yakima enhancement project;

- 1 (7) Duties and powers regarding irrigation districts and  
2 reclamation districts;
- 3 (8) Reclamation authority for agricultural lands;
- 4 (9) Powers and duties, both enforcement and administrative  
5 authority over water quantity aspects of water resources, including:
- 6 (a) The water codes;
- 7 (b) Stream patrolmen and watermasters;
- 8 (c) Water rights, including but not limited to registration,  
9 relinquishment, waiver, and transfer;
- 10 (d) Appropriation of water for public and industrial purposes;
- 11 (e) Minimum flows and levels;
- 12 (f) Regulation of outflow of lakes;
- 13 (g) Yakima river basin water rights;
- 14 (h) Water resource management;
- 15 (i) Regulation of public ground waters; and
- 16 (j) Water well construction.

17 NEW SECTION. **Sec. 17.** Although authorities are not transferred  
18 from the department of ecology to the water resources board, the  
19 eastern and western Washington water resource commissions, and the  
20 state engineer until July 1, 1997, the governor, department, board,  
21 commissions, and state engineer shall take all actions necessary before  
22 July 1, 1997, that will ensure an orderly and effective transfer of  
23 authority on that date.

24 **PART III**  
25 **MISCELLANEOUS**

26 NEW SECTION. **Sec. 18.** A new section is added to chapter 43.21A  
27 RCW to read as follows:

28 A rule, order, or directive of the department adopted or issued  
29 under chapter 86.16 or 43.37 RCW shall be adopted or issued in  
30 accordance with the administrative procedure act, chapter 34.05 RCW,  
31 and may be appealed as provided by chapter 43.21B RCW.

32 NEW SECTION. **Sec. 19.** Part headings as used in this act do not  
33 constitute any part of the law.

1        NEW SECTION.    **Sec. 20.**    Sections 1 through 7, 15, and 16 of this  
2 act shall constitute a new chapter in Title 43 RCW.

3        NEW SECTION.    **Sec. 21.**    RCW 43.21A.067 as amended by this act shall  
4 be recodified as a section in the new chapter created in section 20 of  
5 this act.

6        NEW SECTION.    **Sec. 22.**    The following acts or parts of acts are  
7 each repealed:

8            (1) RCW 43.21A.064 and 1995 c 8 s 3, 1977 c 75 s 46, & 1965 c 8 s  
9 43.21.130; and

10           (2) RCW 90.54.030 and 1990 c 295 s 2, 1988 c 47 s 4, & 1971 ex.s.  
11 c 225 s 3.

12        NEW SECTION.    **Sec. 23.**    Sections 8 through 14, 21, and 22 of this  
13 act shall take effect July 1, 1997."

14    **2SSB 6336** - H COMM AMD  
15        By Committee on Agriculture & Ecology

16  
17        On page 1, line 1 of the title, after "board;" strike the remainder  
18 of the title and insert "amending RCW 43.27A.020, 43.27A.090,  
19 43.27A.130, 43.27A.190, 43.21A.020, 43.21A.067, and 90.54.040; adding  
20 a new section to chapter 43.21A RCW; adding a new chapter to Title 43  
21 RCW; creating new sections; recodifying RCW 43.21A.067; repealing RCW  
22 43.21A.064 and 90.54.030; and providing effective dates."

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